IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7069 OF 2006

Diamond Plasto and anr. ..Petitioners

V/s.

Precious Gems Co. and anr. ..Respondents

Mr.Prakash G. Lad for the petitioners
Mr.Moorty i/b.P.S.Madkaikar for the respondent Nos.1 & 2

CORAM : S.C.DHARMADHIKARI, J.

DATE : 15TH JUNE, 2007

P.C.

1. The order i.e.impugned in this petition is on a Chamber Summons of the respondents which prayed for the royalty amount to be enhanced from Rs.7,500/- per month to Rs.20,000/- per month.

2. The petitioners/plaintiffs are in possession as agent of the Court Receiver. The suit properties are two industrial galas/sheds which are situate in an Industrial Estate. The receiver fixed royalty at Rs.7,500/- per month and by the impugned order the learned Judge has enhanced it to Rs.11,500/- per month per gala.

3. I have heard Mr.P.G.Lad appearing for the petitioners and Mr.Moorty appearing for the contesting respondent Nos.1 & 2 at length. I have perused the order passed by the Court Receiver so also the impugned order and related papers.

4. In my view, considering that gala is in an Industrial Estate, the Court Receiver was not right in determining the Royalty at Rs.7,500/-. It was required to be enhanced but not to the extent claimed by the respondents/defendants. When the matter was argued for some time both sides agreed me that this Court should fix a reasonable amount and petitioners/plaintiffs would pay the same. Accordingly, interest of justice would be sub-served if the impugned order is modified and rate of compensation is enhanced from Rs.7,500/- per month per gala to Rs.10,000/- per month per gala. The Chamber Summons allowed to this extent. The impugned order to stand modified accordingly. Writ Petition is disposed off in the above terms.

5. Mr.P.G.Lad applies for time to clear the arrears at the enhanced rate and prays for one year time in that behalf. Mr.Moorty opposes this request. In my view, it would be fair and proper if plaintiffs clear of the arrears within a period of six months from today. The Court Receiver to intimate to the parties, if any communication is received from the co-operative society and needless to state that the parties shall do everything possible to protect possession of the Court Receiver in respect of the suit galas. All concerned to act on authenticated copy of this order.

(S.C.DHARMADHIKARI, J.)